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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/991,525	11/20/2001	Stephen R. Bacso	1028-007US01	4260

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EXAMINER

HOSSAIN, FARZANA E

ART UNIT	PAPER NUMBER
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2623

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/29/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

09/991,525

Applicant(s)

BACSO ET AL.

Examiner

Farzana E. Hossain

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 January 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 1/30/2007 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
- Paper No(s)/Mail Date _____.

- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

1. This office action is in response to claims filed 01/20/2007. Claims 1, 12 and 15 are amended. Claims 2-11 and 13 are previously presented. Claim 14 is original.

Response to Arguments

2. Applicant's arguments filed 01/30/2007 have been fully considered but they are not persuasive.

The applicant argues that the example given in the previous remarks describes information found in the applicant's specification and states that the example and the applicant's specification support determining user characteristics of a target viewer or a viewer recited in Claims 1, 12, 15 (Page 9). The applicant argues that the characteristics being provided to the receiver after being determined elsewhere (Page 9). The applicant argues that Zigmond discloses viewer and system information stored in storage location which not the same as characteristics determined outside of the receiver and provided to the receiver by a third party and unlike Zigmond the present application is not limited to demographic characteristics (Pages 9-10). The applicant further argues that the receiver that receives the user characteristics will display the content; the user characteristics are not determined by or on the receiver (Pages 10-

11). The applicant argues that Zigmond does not teach, disclose, or suggest at least "determining user characterizing the at least one viewer selected to view the target content" (Page 11).

In response to the argument, Zigmond discloses ad selection criteria including ad selection rules and advertisement parameters are received by the user, the ad selection rules and advertisement parameters are provided by advertisers, video content provider or a third party operator (Column 11, lines 50-53, Column 12, lines 15-18), the ad selection criteria including ad selection rules are used to match the viewer and system information to effectively target individuals that belong of the desired segment of the viewing population (Column 11, lines 30-65). Zigmond discloses determining user characterizing the at least one viewer selected to view the target content (Column 11, 31-65, Column 12, lines 15-32, Column 13, lines 7-67), receiving user characteristics in the previous action or ad selection criteria, which provides information about the programming and users to target the appropriate segment of the viewing population (Column 11, lines 31-65). The amendment clarified the determining of the user characteristics for at least one viewer of a plurality of users, which is met by Zigmond. See below.

3. Applicant's failure to adequately traverse the Examiner's taking of Official Notice for Claims 9, 10, 14 in prior Office Actions is taken as an admission of the facts noticed.

Claim Rejections - 35 USC § 101

4. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

5. Claim 15 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter as follows. Claim 15 defines a storage medium readably by a computer, the medium a computer process to provide a method embodying functional descriptive material. However, the claim does not define a computer-readable medium or memory with a having encoding a computer process and is thus non-statutory for that reason (i.e., "When functional descriptive material is recorded on some computer-readable medium it becomes structurally and functionally interrelated to the medium and will be statutory in most cases since use of technology permits the function of the descriptive material to be realized" – Guidelines Annex IV). Any amendment to the claim should be commensurate with its corresponding disclosure.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 1, 12, 15 are rejected under 35 U.S.C. 102(e) as being anticipated by Zigmond et al (U.S. 6,698,020 and hereafter referred to as "Zigmond").

Regarding Claims 1, 12, and 15, Zigmond discloses a method for presenting target content to at least one target viewer selected from a plurality of users in a communications network (Abstract, Figure 6), a system (Figure 5) for presenting target content to at least one target viewer selected from a plurality of users in a communications network, a storage medium readable by a computer, the medium encoding a computer process to provide a method for target content presentation to at least one target viewer selected from a plurality of users in a communications network (Column 6, lines 48-65), the method, the system, and the computer process comprising the steps of: means for determining user characteristics characterizing the at least one viewer selected to view the target content (Column 11, lines 13-65, Column 12, lines 15-32), means for receiving the user characteristics (Column 11, lines 31-65) and schedule information (Column 10, lines 64-67, Column 11, lines 1-8) on a target viewer's receiver device (Column 8, lines 58-61, Column 11, lines 1-8, 31-65), means for selecting the target content according to features available on the receiver device (Figure 5, 80, Column 11, lines 31-35 and Column 17, lines 23-25), means for presenting the target content in accordance with said user characteristics and said schedule information (Column 11, lines 31-49 and Column 17, lines 23-31).

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 2, 4 9, 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zigmond in view of Flickinger et al (U.S. 2002/0083441 and hereafter referred to as "Flickinger") and Eldering et al (US 6,324,519 and hereafter referred to as "Eldering").

Regarding Claim 2, Zigmond discloses the limitations of Claim 1. Zigmond discloses monitoring the program stream for opportunities and content descriptors (Column 15, lines 35-44), however Zigmond fails to explicitly disclose monitoring a programming stream for opportunity descriptors and content descriptors; determining a source for alternate target content; matching the opportunity descriptors to the target content and the user characteristics and determining a source for alternate target content. In an analogous art, Flickinger teaches monitoring a programming stream for opportunity descriptors and content descriptors (Page 5, paragraph 0070). Flickinger discloses each received ad has a tag or opportunity descriptor associated with it describing the characteristics of the ad (Page 6, paragraph 0073). Further, this tag or opportunity descriptor can be used by the STB (Figure 2, 200) to determine whether or not to store the received ad (Page 6, paragraph 0074). Flickinger further teaches, matching the opportunity descriptors to the target content and the user characteristics

(Page 6, paragraph 0072). Flickinger discloses STB (Figure 2, 200) uses the received tag or opportunity descriptor associated with each received ad and compares the characteristics contained in the ad tag with the STB profile to determine if there is a match. If a match is found the ad is stored and if a match is not found, the ad is ignored (Page 6, paragraph 0074). In an analogous art, Eldering teaches, determining a source for alternate target content (Column 3, lines 26-38). Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Zigmond to monitor a programming stream for opportunity descriptors and content descriptors (Page 5, paragraph 0070) and matching the opportunity descriptors to the target content and the user characteristics (Page 6, paragraph 0074) as taught by Flickinger in order for the benefit of allowing advertisers to better reach their target audience while increasing the probability the advertisements will be viewed by their target audience (Page 3, paragraph 0045) as disclosed by Flickinger. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Zigmond to include determining a source for alternate target content (Column 3, lines 26-38) as taught by Eldering in order to determine a source for alternate target content for the benefit of matching advertisements with consumers (Column 1, lines 5-35) as disclosed by Eldering.

Regarding Claim 4, Zigmond discloses all the limitations of Claim 1. Zigmond discloses monitoring the program stream for opportunities and content descriptors (Column 15, lines 35-44). Zigmond discloses checking security rights at a function invocation on the receiver device to determine appropriateness of the target content and

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if the content is not appropriate, skipping the presenting step (Column 13, lines 48-58).

Zigmond fails to explicitly disclose monitoring programming and content streams for opportunity descriptors and content descriptors; pre-matching the opportunity descriptors to the target content and the user characteristics; determining a source for alternate target content; checking security rights at a function invocation on the receiver device to determine appropriateness of the target content; if the content is not appropriate, skipping the presenting step; and updating pre-matched opportunity descriptors for a next function invocation of the receiver device, determining a source for alternate target content. In an analogous art, Flickinger teaches monitoring programming and content streams for opportunity descriptors and content descriptors (Page 5, paragraph 0070). Flickinger discloses each received ad has a tag or "opportunity descriptor" associated with it describing the characteristics of the ad (Page 6, paragraph 0073). Further, this tag or opportunity descriptor can be used by the STB 200 to determine whether or not to store the ad (Page 6, paragraph 0074). Flickinger further teaches, pre-matching the opportunity descriptors to the target content and the user characteristics (Page 5, paragraph 0067). Flickinger discloses the information required to determine whether or not to store the ad could be sent in advance of the ad. Flickinger discloses STB (Figure 2, 200) uses the received tag or opportunity descriptor associated with each received ad and compares the characteristics contained in the ad tag with the STB profile to determine if there is a match (Page 6, paragraph 0072). If a match is found the ad is stored and if a match is not found, the ad is ignored (Page 6, paragraph 0074). Flickinger teaches, updating pre-matched opportunity descriptors for a

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next function invocation of the receiver function (Page 5, paragraph 0067). Flickinger discloses ad tags or opportunity descriptors can be received in advanced so therefore the tags can be matched with the STB profile in order to determine which ads to store before receiving the ads. Eldering teaches determining a source for alternate target content (Column 3, lines 26-38). Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Zigmond to monitor programming for opportunity descriptors (Page 5, paragraph 0070) and matching the opportunity descriptors to the target content and the user characteristics (Page 6, paragraph 0074) as taught by Flickinger in order to allow advertisers to better reach their target audience while increasing the probability the advertisements will be viewed by their target audience (Page 3, paragraph 0045) as disclosed by Flickinger. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Zigmond to include determining a source for alternate target content (Column 3, lines 26-38) as taught by Eldering in order to determine a source for alternate target content for the benefit of matching advertisements with consumers (Column 1, lines 5-35) as disclosed by Eldering.

Regarding Claims 9 and 10, Zigmond, Flickinger and Eldering disclose all the limitations of Claim 2. Zigmond, Flickinger and Eldering fail to disclose viewers profile data is encrypted to prevent unauthorized access and storing the files within the facilities of a CA system. However, the examiner gives Official Notice that it is notoriously well known in the art of video distribution systems to keep customer's confidential information in a secured part of a system. Accordingly, it would have been


obvious to one of ordinary skill in the art at the time the invention was made to modify the combination of Zigmond, Flickinger and Eldering in order to keep viewers profile data encrypted to prevent unauthorized access for the benefit of securely storing viewer's profiles because such practice would protect confidential information about the subscription service's subscribers.

Applicant's failure to adequately traverse the Examiner's taking of Official Notice for Claims 9 and 10 in prior Office Actions are taken as an admission of the fact(s) noticed.

10. Claims 3 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zigmond in view of Flickinger and Eldering as applied to claims 2 and 4 above, and further in view of Houston (US 6,353,929).

Regarding Claim 3, Zigmond, Flickinger, and Eldering disclose all the limitations of Claim 2. Zigmond, Flickinger, and Eldering fail to disclose updating a secure audit log with a viewing result. In an analogous art, Houston discloses updating a secure audit log with a viewing result (Column 10, lines 1-30). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Zigmond in view of Flickinger and Eldering in order to update a secure audit log with a viewing result (Column 10, lines 1-30) as taught by Houston for the benefit of ensuring that the privacy of the viewers would be kept confidential.

Regarding Claim 5, Zigmond, Flickinger and Eldering disclose all the limitations of Claim 4. Zigmond, Flickinger and Eldering fail to disclose updating a secure audit log



with a viewing result. In an analogous art, Houston discloses updating a secure audit log with a viewing result (Column 10, lines 1-30). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Zigmond in view of Flickinger and Eldering in order to update a secure audit log with a viewing result (Column 10, lines 1-30) as taught by Houston for the benefit of ensuring that the privacy of the viewers would be kept confidential.

11. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Zigmond in view of Flickinger in view of Eldering as applied to claim 2 and further in view of Ismail et al (US 6,614,987 and hereafter referred to as "Ismail").

Regarding Claim 6, Zigmond, Flickinger, and Eldering disclose all the limitations of Claim 2. Zigmond discloses verifying that permission is available to access the received target content (Column 13, lines 48-58). Flickinger teaches, monitoring a content descriptor transmission stream for opportunity descriptors and content descriptors (Page 5, paragraph 0070). Flickinger discloses each received ad has a tag or "opportunity descriptor" associated with it describing the characteristics of the ad (Page 6, paragraph 0073). Further, this tag or "opportunity descriptor" can be used by the STB 200 to determine whether or not to store the received ad (Page 6, paragraph 0074). Zigmond, Flickinger, Eldering disclose, in particular Flickinger teaches, matching the opportunity descriptors with the receiver device's capabilities (Page 6, paragraph 0072). STB (Figure 2, 200) naturally can only store target content with associated opportunity descriptors that are compatible with STB (Figure 2, 200) capabilities.

Flickinger teaches matching the content descriptors to the user characteristics (Page 5, paragraph 0070) and selecting the content descriptors with the strongest match to the user characteristics (Page 5, paragraph 0064). Flickinger teaches if the received target content is not already in storage, determining if the received target content can be acquired in a timely manner (Page 5, paragraph 0067). Flickinger discloses ad tags can be received and processed in advance to prevent from storing every received ad in storage. If the STB 200 determines the ad is appropriate based on the ad tag, then when the corresponding is received, the ad is immediately stored in memory. Eldering teaches acquiring the target content from the determined alternate source (Column 3, lines 26-38).

Zigmond, Flickinger, Eldering fail to disclose comparing the content descriptor matches of the received target content with the content descriptor matches of existing target content in the receiver's storage, to determine if the existing target content has weaker matches than the received target content and placing the acquired target content in storage. In an analogous art, Ismail discloses comparing the content descriptor matches of the received target content with the content descriptor matches of existing target content in the receiver's storage, to determine if the existing target content has weaker matches than the received target content (Column 10, lines 32-62). Ismail discloses recording manager (Figure 2, 112, Figure 3, 112) causes recording of programs (Figure 1, 105) by using the received preference ratings from preference agent 110. The recording manager (Figure 2, 112, Figure 3, 112) then records programs or "target content" that have a high rating (Column 9, lines 59-67, Column 10,

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lines 1-10), to make room for newly received programs or "target content", recording manager (Figure 2, 112, Figure 3, 112) manages storage capacity by comparing the received program with a high rating to a stored program with a low or "weaker" rating (Column 10, lines 50-54). Ismail further discloses, placing the acquired target content in storage (Column 9, line 59-67, Column 10, lines 1-14).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the combination of Zigmond, Flickinger, Eldering to compare the content descriptor matches of the received target content with the content descriptor, matches of existing target content in the receiver's storage Column 10, lines 32-62), to determine if the existing target content has weaker matches than the received target content and placing the acquired target content in storage (Column 9, line 59-67, Column 10, lines 1-14) as taught by Ismail in order to maximize storage constraints by only storing target content that will be of high interest to the intended viewer.

12. Claims 7, 8, and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zigmond in view of Flickinger in view of Eldering as applied to claim 2 above, and further in view of Picco et al (US 6,029,045 and hereafter referred to as "Picco").

Regarding Claim 7, Zigmond, Flickinger, and Eldering disclose all the limitations of Claim 2. Zigmond, Flickinger and Eldering fail to disclose wherein a configuration is received by a micro decision engine (MDE) includes triggers that indicate to the MDE if

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components need to be replaced to enable dynamic adaptation to new feedback algorithms, improved functional capability, and/or component code fixes.

In an analogous art, Picco discloses wherein a configuration of a micro decision engine (MDE) includes triggers that indicate to the MDE if certain components need to be replaced to enable improved functional capability, by disclosing the scheduler may generate command signals for the set-top box or "MDE" which, for example, request the set-top box to update a local content control block, indicate a new download to the set-top box, download software updates to the set-top box for the software being executed by the set-top box, or download a control strategy to the set-top box to improve functional capability (Column 7, lines 33-67).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Zigmond, Flickinger and Eldering to include a configuration of a micro decision engine (MDE) includes triggers that indicate to the MDE if certain components need to be replaced to enable improved functional capability (Column 7, lines 33-67) as taught by Picco for the benefit of keeping the set-top box up to date with software updates.

Regarding Claim 8, Zigmond, Flickinger, Eldering and Picco disclose all the limitations of Claim 7. Zigmond discloses the ad selection criteria are received at the receiver from advertisers and broadcasters (Figure 5). Picco teaches wherein the MDE receives the user characteristics from an operator by disclosing the local content includes content profiles that indicate to the set-top box or "MDE" the interest of local content for viewers in the household (Column 2, lines 49-49). If the content profiles

match with the user preferences then the local content is stored on disk (Column 13, lines 36-65, Column 2, lines 49-49).

Regarding Claim 11, Zigmond, Flickinger, Eldering and Picco disclose all the limitations of Claim 8. Picco discloses wherein a plurality of instances of the MDE can be generated to match one or more of the capabilities and requirements of the receiver device and the capabilities of a plurality of receiver models on the network (Column 7, lines 41-48).

13. Claims 13 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zigmond in view of Eldering et al (US 6,704,930 and hereafter referred to as "Eldering2").

Regarding Claim 13, Zigmond discloses all the limitations of Claim 12. Zigmond discloses a receiver component (80 - figure 5) including: a data filter for filtering data (84- figure 5; Column 15, lines 17-23); and a micro decision engine (83 - figure 5) for providing the guidance and commands to present content to the end-user from the data filter (Column 11, lines 31-49). However, Zigmond fails to disclose a head end component. In an analogous art, Eldering2 discloses a head end component (Figure 11) including: a content schedule component (Figure 11, 203) having: a content schedule database, and a content scheduler for accessing the content schedule database to provide schedule triggers (Column 8, lines 58-65). Eldering2 discloses a head end component further having a profile component (Figure 11, 221) having: a profile database; and a profile scheduler for accessing the profile database to provide

profile triggers (Column 9, lines 15-24). Eldering2 discloses a head end component further having a matching engine (Figure 11, 201) for accessing the content schedule and profile components to match content to end-users (Column 9, lines 37-43). Eldering2 discloses a head end component further having a delivery engine for delivering the matched content (Column 9, lines 53-58). Although not shown, the head end component must have a delivery engine in order to facilitate transmission of the multiplexed stream to subscribers. Eldering2 discloses a head end component further having a combiner (Figure 11, 245) that receives the delivered matched content and combines it with available content streams (Column 9, lines 44-52). Eldering2 discloses a data network between the head end and the end-user components for transmitting data (Column 9, lines 53-58).

Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Zigmond to include a head end component (Figure 11) including: a content schedule component (Figure 11, 203) having: a content schedule database, and a content scheduler for accessing the content schedule database to provide schedule triggers (Column 8, lines 58-65); a profile component (Figure 11, 221) having: a profile database; and a profile scheduler for accessing the profile database to provide profile triggers (Column 9, lines 15-24); a matching engine (Figure 11, 201) for accessing the content schedule and profile components to match content to end-users (Column 9, lines 37-43); a delivery engine for delivering the matched content (Column 9, lines 53-58); a combiner (Figure 11, 245) that receives the delivered matched content and combines it with available content streams (Column 9,

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lines 44-52), and a combiner (Figure 11, 245) that receives the delivered matched content and combines it with available content streams (Column 9, lines 44-52) as taught by Eldering2 for the benefit of providing a management system to control the insertion process of target content in a multiplexed stream (Column 1, lines 46-53) as disclosed by Eldering2.

Regarding Claim 14, Zigmond and Eldering2 disclose all the limitations of Claim 13. Zigmond and Eldering2 fail to explicitly disclose wherein the delivery engine is provided in a plurality of instances to provide for load balancing and capacity requirements. The examiner gives Official Notice that it is notoriously well known in the art of video distribution systems to provide systems that provide load balancing to prevent a server from being overwhelmed with requests for content. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Zigmond and Eldering2 to implement a system that provided load balancing and capacity requirements for the benefit of preventing an overload of bandwidth throughout the system.

Applicant's failure to adequately traverse the Examiner's taking of Official Notice for Claim 14 in prior Office Actions is taken as an admission of the facts noticed.

Conclusion

14. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Farzana E. Hossain whose telephone number is 571-272-5943. The examiner can normally be reached on Monday to Friday 8:00 am to 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Kelley can be reached on 571-272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

FEH
March 22, 2007



SCOTT E. BELIVEAU
PRIMARY PATENT EXAMINER